Supreme Court, U. S.
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In the

Supreme Court of the United States

October Term, 1979

No. 79-1338

In the Matter of
HARTFORD TEXTILE CORPORATION,
OXFORD CHEMICALS, INC.
WELLINGTON PRINT WORKS, INC.,

Debtors.

ROSE SHUFFMAN, As Executrix of
the Estate of OSCAR SHUFFMAN, Deceased,

Petitioner,

—against—

HARTFORD TEXTILE CORPORATION,
OXFORD CHEMICALS, INC.
WELLINGTON PRINT WORKS, INC.,

Respondents.

PETITION FOR WRIT OF CERTIORARI TO THE U.S. COURT OF APPEALS FOR THE SECOND CIRCUIT

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The petitioner prays that a writ of certiorari issue to review the Judgment of the United States Court of Appeals for the Second Circuit, entered December 4, 1978.

OPINIONS BELOW

The United States Court of Appeals for the Second Circuit wrote no opinion in denying Petitioner's* Motion for Order of Recusal of Hon. Sterry R. Waterman, Leonard P. Moore and Walter R. Mansfield. The Order denying Petitioner's motion is reprinted at page A-1 of the Appendix hereto.

JURISDICTION

The order of the United States Court of Appeals for the Second Circuit was entered December 4, 1979.

The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1254.

*As used herein, "Petitioner" refers to both Rose Shuffman, as Executrix of the Estate of Oscar Shuffman Deceased, and the late Oscar Shuffman

QUESTIONS PRESENTED

1. Whether, under In re Grand Jury Investigation, 610 F.2d 202, (5th Cir., 1980), articles in Gannett and other newspapers charging the Judges of the United States Court of Appeals for the Second Circuit with criminal misconduct including inter alia, conspiracy to obstruct justice, conspiracy to violate civil rights, forgery and misprision of felony, based upon either documentary evidence or sources within the Chambers of the Chief Judge of the Second Circuit, constitute a sufficient prima facie showing of a violation of 28 U.S.C. 455 and the pertinent provisions of Title 18, United States Code to warrant an evidentiary hearing on Petitioner's Motion for Recusal of Judges, etc. before such motion can be denied?

2. Whether, under Brown v. Board of Education, 344 U.S. 1 (1952), In re Grand Jury Investigation 610 F.2d 202, (5th Cir., 1980), the Supreme Court must judically notice documents annexed as Exhibits to Petitioner's Motion For Leave to File Petition For Writ of Mandamaus and Petition For Writ of Mandamus in Supreme Court Case No. 79-681, and the documents annexed as exhibits to the Solicitor General's Memorandum in Opposition, referred to in the Gannett Newspaper story, and whether those documents constitute sufficient prima facie evidence of the alteration and falsification of a Second Circuit Order and fraud upon the Supreme Court and the Petitioner in Supreme Court Case No. 77-1812, to warrant the recusal of Sterry R. Waterman, Walter R. Mansfield and Leonard P. Moore?

3. Whether, under Brown v. Board of Education, 344 U.S. 1 (1952) and In re Grand Jury Investigation, 610 F2d 202, (5th Cir. 1980) the Supreme Court must judicially notice the Memorandum Decision of Judges Sterry R. Waterman and Walter R. Mansfield dated ten weeks prior to a "charade" hearing being staged on Petitioner's Motion For Order Directing the President to Appoint A Special Prosecutor, which "charade" hearing was staged before different Circuit Judges, including Leonard P. Moore, as reported by Gannett and other newspapers, as a sufficient showing of prima facie evidence of judicial misconduct to warrant the granting of the motion for recusal of judges, or, in the alternative, an evidentiary hearing before such motion could be denied?

4. Whether, under Article III of the Constitution, the Supreme Court has a duty to insure the honest administration of justice in the lower Federal Courts through a grant of certiorari, when news articles in the Gannett Newspapers and elsewhere charge Judges and Staff Attorneys of the United States Court of Appeals for the Second Circuit with violating the criminal laws of the United States?

STATEMENT OF FACTS

A. Prologue

The operative facts underlying the narrow issues presented in this Petition are based upon documentary evidence on file in the United States Court of Appeals for the Second Circuit. This statement of facts will be confined as far as is practical to the acts and conduct of those Judges whose Order is being reviewed in this Petition. It will not repeat the facts in the Shuffman-Hartford dispute.

Based upon those documents the Gannett and other newspapers have recently published articles in which various Federal Judges, including Sterry R. Waterman, Water R. Mansfield and Leonard P. Moore, have been accused of participation in a criminal conspiracy to obstruct justice as part of a cover up of a fix in a bankruptcy court amounting to a judicial Watergate.

One respected New York weekly newspaper has even gone so far as to state that the United States Supreme Court has joined in the cover up. Given the documentary evidence, the recent denials of certiorari in other Hartford related Petitions support this conclusion, which is also shared by a number of respected journalists in Washington, D.C. and elsewhere.

B. The Press

On February 3, 1980, the Gannett Newspapers published an article entitled "Attorney charges 'judicial Watergate.'" The article enumerated at least a half dozen major felonies having been committed by Judges of the Second Circuit, Staff Counsel to the Court, the attorneys for Respondent and the Respondent.

The article reads in part:

> David Shuffman is the victim of a unique - and indisputedly self-generated - purgatory resulting from his battle with the imposing powers of the U.S. Courthouse in Manhattan.
>
> At 32, Shuffman has succeeded in drawing the wrath of a U.S. District Court Judge, several members of the Second Circuit U.S. Court of Appeals, a U.S. Bankruptcy Court Judge and one of the most powerful law firms on Wall Street.
>
> This young attorney's battle to win an $80,000 claim for his widowed mother - a Scarsdale resident - has extended over three years, through the massive marble hallways of the golden-domed federal courthouse at Foley Square, to the U.S. Justice Department and most recently to the U.S. Supreme Court and the U.S. Senate Committee on the Judiciary.
>
> Through it all, as he pursued what was initially a simple legal matter relating to the interpretation of

> a finder's fee contract, Shuffman has come to what many say is an astonishing and incredible conclusion:
>
> "There is a fix and cover-up taking place in the U.S. District Courthouse for the Southern District of New York, which has reached such proportions as to deserve being called a judicial Watergate."
>
> The judges, whom Shuffman accuses -- on the court record and to their faces -- of conspiring to cover-up careless legal errors and making an "accommodation" to a powerful law firm, are members of what has been referred to as "the crown jewel" of the federal court system, often regarded as one of the most prestigious of all U.S. courthouses.
>
> In defense of his claims against the courts, Shuffman argues and provides ample documentation to prove that: He was denied a full hearing by the U.S. Bankruptcy Court from which his lengthy case evolved; a secret meeting between U.S. Bankruptcy Judge Roy Babitt and Shuffman's adversaries was held to settle the original bankruptcy case in apparent violation of court procedure; a staff attorney for the U.S. Court of Appeals altered a decision creating a snafu and blocking the court's intended resolution of the case; evidence exists that before a U.S. Court

of Appeals panel voted to deny a Shuffman motion before a hearing had been held on the matter; and that Shuffman's adversaries filed false petitions in bankruptcy court. (underscoring provided)

On January 28, 1979, a respected Manhattan weekly Newspaper OUR TOWN, began the first of a continuing ten part series reporting upon the obvious fix, cover up and other bizarre happenings in In re Hartford Textile Corporation, et al.

In its article published October 28, 1979, just four weeks after this Court denied Petitioner's Petition for a Writ of Certiorari in Case No. 79-178, OUR TOWN published an article which read in part:

Hartford Bazaar

With one short sentence, the U.S. Supreme Court, On Oct. 1, 1979, gave its official o.k. to a gorgeous fix and coverup in the case of Hartford Textiles Inc. The Court gave its official stamp of approval to a case fixed by Bankruptcy Judge Roy Babitt and subsequently covered up by half the judges in the Federal Courthouse in Foley Square. In a letter to East Side lawyer David Shuffman, the Supreme Court said: "The Court today entered the following order in the above-entitled case: The petition for a writ of certiorari is denied.

The Court gave no reasons. It's impossible to determine whether the action was influenced by a well-reasoned desire to protect a very large contingent of eminent judges from serious embarrassment, or whether the Court had simply taken at face value legal papers filed in opposition, papers which were as patiently phony as a nine dollar bill.

Our Town's continuing coverage of the Hartford and other cases leaves no doubt that the Supreme Court was misled by Judges in the U.S. Court of Appeals for the Second Circuit, who have waged an unrelenting campaign to protect Judge Babitt and to discredit and destroy Shuffman.

Despite clear discrepancies in Babitt's reports, and despite the fact that Babitt admitted on the record that he had told the U.S. Attorney that Weil, Gotshal and Manges, Shuffman's opponents, had lied, and that their bankruptcy activities were "a ripoff of everybody," District Judge Charles Brieant upheld Babitt. Not only did he support Babitt, he also issued a permanent injunction barring lawyer Shuffman from filing any more papers in the case. Remarkably enough Brieant took this action without bothering to give Shuffman notice, or to conduct a hearing on the matter. Four weeks after issuing the injunction, Brieant told Shuffman that he was well aware of the fallacies and prejudice in his order, and then, with an ironic grin,

suggested that Shuffman seeks redress in the court of appeals. By then, Shuffman was already and clearly persona most hated in that court.

Lie Detectors

The basic defense of all those who have failed to take action on Shuffman's well documented allegations is that he is "given to exaggeration." That is, they say he is lying. All they want is the truth, folks. Unfortunately for his detractors, Shuffman took the trouble of undergoing rigorous lie detector tests concerning all the accusations he had made against lawyers, judges, and indolent members of the U.S. Justice Dept. The results were conclusive. Shuffman is telling the truth.

Two questions on which Shuffman passed the test are of special interest. At one point Nathaniel Fensterstock, staff counsel to the court of appeals, told Shuffman that "lawyers had been killed for less than what he had been doing, and sometimes they don't even find the bodies." At another point, U.S. Attorney General Benjamin Civiletti told Shuffman, gallantly, that Second Circuit Judges could fix cases, at will, with the A.G.'s blessing.

Shuffman was polygraphed by the same man who broke the case of Viola Liuzzo, a civil rights activist

murdered in Alabama in 1969. Lie detector tests administered by Victor C. Kaufman, founder of the American Polygraph Association, showed conclusively that the two Klansmen convicted of the killing based upon the testimony of an F.B.I. informer, were innocent. Further tests indicated that the F.B.I. informer was lying.

Steambath

The results of Shuffman's lie detector tests pose a serious problem for James M. Nabritt III, Associate General Counsel of the NAACP Legal Defense and Educational Fund. Nabritt is the Acting Chairman of the Second Circuit's Committee on Admissions and Grievances which is seeking to disbar Shuffman.

Nabritt inherited his position from Norman Redlich, dean of NYU Law School, who disqualified himself as Chairman because NYU has solicited funds from Weil, Gotshal & Manges in the past, and expects to solicit in the future.

Nabritt apparently does not share the same ethical constraints that bound Dean Redlich, despite the fact that Horace S. Manges is on the "Committee of 100" which is in charge of raising funds for the NAACP Legal Defense Fund. Nabritt is also on the Board of Directors of the City Bar Association, whose disciplinary committee is conducting a preliminary investigation for Nabritt's Federal Disciplinary Committee. Nabritt was appointed to the Committee by the very judges

under the cloud of accusation in the cover up. First rate conflict of interest is suggested here.

Steambath II

Also sweating out the Shuffman-Babitt situation is George S. Leisure, Jr., of the prestigious firm of Donovan, Leisure, Newton and Irvine. Shuffman asked Leisure to disqualify himself from the Federal Disciplinary Committee because of a clear-cut conflict of interest. In June of 1977 Shuffman filed his first complaint against Babitt with then Assistant U.S. Attorney Daniel Murdock. Murdock, now a partner at Donovan, Leisure, told Shuffman that it was obvious that Judge Babitt and Weil, Gotshal were involved in unlawful activity. But, you guessed it. Murdock now denies ever making the statement.

Shuffman asked Leisure to disqualify himself on Sept. 11, 1979. Leisure acknowledged receipt of the letter on September 14. He said he would think about it. On Sept. 21, 1979, Leisure denied Shuffman's request in a letter which read in part:

> "Since no hearings have been scheduled by the Committee, I believe it would be premature for me to take the action you requested at this time. I will, however, always remain alert to the possibility of conflicts occurring in any matter referred to the Committee on which I serve, and should such arise, I

> will then take whatever action is appropriate in the circumstances."

What Leisure neglected to tell Shuffman was that the day before he sent the letter, the Committee did meet. At that meeting it approved a new operating procedure, whereby all Committee meetings and procedures were to be strictly confidential. Leisure had carefully waited until after the meeting on Sept. 20, so that he could vote in favor of keeping the proceedings closed to the public, before he sent his letter to Shuffman. This way he spared the aforementioned former prosecutor Daniel Murdock, now of his firm, from public testimony concerning the advice he gave Shuffman: "Obviously, there were ex parte communications between Weil, Gotshal and Babitt. Why don't you hire an old lawyer to teach you the facts of life. These things go on all the time."

At Home In the Inquisiton

Three weeks ago we reported that a remarkable twelve en banc orders, signed by every judge in the Second Circuit, had already descended on Shuffman's head. Since that time, two more have been issued. According to the Federal Rules of Appellate Procedure regarding en banc reviews, Hartford Textiles, Inc. . . the Shuffman case, is now the most exemplary case in the history of local federal courts.

Recent disclosures may help explain why. According to a reliable source, inside Judge Irving Kaufman's chambers, continuous secret meetings were held ten months ago to decide how to handle Shuffman. Present at these meetings, reportedly, were members of the Weil, Gotshal firm. (underscoring provided).

Back in Court

On Monday, Oct. 29, Tom Magid, representing the minority shareholders of Hartford Textile, will appear in Judge Babitt's court. He has just filed papers seeking to have the firm of Weil, Gotshal disqualified as attorneys for Hartford, and to get their fees revoked. Magid will charge that petitions, schedules and statements prepared by that firm for Hartford's President, Bob Magid, were all false. We trust Judge Babitt will act with dispatch on this appeal.

Shuffman is also scheduled to file papers in the Supreme Court this week in a last ditch effort to have the fix reversed. We hope the Court will carefully review its earlier decision. Perhaps the Supreme Court should take some lead from a Surrogate Judge in Westchester County. In a recent decision on a motion to impose santions on Weil, Gotshal, the Judge, though denying the request, did categorize the Weil, Gotshal affidavit in opposition as "fallacious and a sham."

And Justice For All

What Overmyer and Shuffman need now is a screenplay based on their Kafkaesque travails in the federal bankruptcy courts. Maybe Al Pacino will star. And maybe Frank Serpico will direct, a movie called "And Justice For All."

Petitioner has been reliably informed that more ink, and other media coverage, including television, is on the way.

C. The Supreme Court

On October 1, 1979 this Court refused to review the Per Curiam Opinion of the Court of Appeals, and on November 26, 1979, also denied the Petition for Rehearing.[1] The Supreme Court thereby left standing an Opinion which was clearly erroneous.

On October 26, 1979, Petitioner filed a Motion for Leave to File a Petition for a Writ of Mandamus and Petition for a Writ of Mandamus, seeking, inter alia, to obtain a transcription of a tape recording of the oral argument on Petitioner's very first motion to remand filed in the Court of Appeals.[2] Petitioner believed that a "CORRECTED" Order of the Court of Appeals, received approximately one week after the original Order, was an altered, back-dated forgery. The Supreme Court refused to review the "CORRECTED" Order, which the District Judge called incomprehensible, in Case No. 77-1812.

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1. Case No. 79-178

2. Case No. 79-681

Petitioner also charged in her mandamus petition that the Judges of the United States Court of Appeals for the Second Circuit were engaged in an ongoing conspiracy to obstruct justice as part of a cover up of a fix in the Bankruptcy Court, which was also being aided and abetted by several District Court Judges and the United States Attorney. The charges of obstruction of justice and cover up of the fix were first brought to the Supreme Court's attention in Case No. 77-1812.

On November 8, 1979, while the Petition for a Writ of Mandamus was pending in the Supreme Court, Petitioner was provided with a semi-complete transcript of the May 9, 1978 oral argument, when her motion to obtain the transcript, which had been pending for over a year was finally granted.

The transcript provided by the Court of Appeals clearly shows that the "CORRECTED" Order was an altered, forged document. Since the Court of Appeals was made aware of the issuance of the "CORRECTED" Order on dozens of occasions, and did not advise the Supreme Court of its bogus nature, the lower Court knowingly allowed a false document to stand for Supreme Court review.

On or about November 30, 1979, the Solicitor General of the United States filed a Memorandum for the Federal Respondents in Opposition to the Motion for Leave to File a Petition for a Writ of Mandamus, etc. containing a semi-complete copy of the May 9, 1978 transcript as an exhibit. Despite the knowledge that a false document was allowed to stand for Supreme Court review, the Solicitor General failed to join in Petitioner's request

that the Supreme Court sua sponte vacate its order in Case No. 77-1812, and consider the petition for a writ of certiorari filed therein based upon the legitimate order.

The Supreme Court denied the Motion for Leave to File A Petition For A Writ of Mandamus etc. on January 7, 1980. A Petition for Rehearing is still pending.

D. The Instant Petition

On October 25, 1978, Petitioner returned to the Bankruptcy Court seeking an Order of Contempt against Respondents and their counsel for the numerous false, misleading and otherwise deceptive statements made throughout the course of the proceedings. Despite denying the motion for lack of jurisdiction, the Bankruptcy Court did direct the filing of a Complaint against Respondents and their counsel with the United States Attorney pursuant to 18 U.S.C. § 3057, charging, among other things perjury, conspiracy, fraud, filing false documents, etc. According to the Court, based upon the documentary evidence, the original findings were not only clearly erroneous but resulted from the numerous false documents and other acts of bankruptcy fraud perpetrated by Respondents and their counsel.

A search on the Bankruptcy Court files on November 9, 1978, yielded a series of correspondence going back to April 1978, among the Bankruptcy Court, Respondents' counsel and Thomas H. Magid, a representative of the minority shareholders, who are the brothers and sister of the President of Respondent corporations.

In his letters to the Bankruptcy Court, Thomas Magid advised the Court that four pending law suits against the corporations and its officers, one of which was a shareholders' derivative action charging the officers with fraud, mismanagement, conversion and waste, had been omitted from the Petitions, Schedules and Statements filed in the Chapter XI, and that the law suits were apparently concealed from the creditors and the Court.

The Bankruptcy Court referred the minority shareholders' letters to Respondents' counsel, who advised that the Court had entered an order several years earlier confirming the Chapter XI's and that the Court therefore lacked jurisdiction to entertain the charges of bankruptcy fraud, etc. The Court, after receiving a copy of Respondents' counsels' letter addressed to Thomas Magid, sent its own letter concurring in Respondents' counsels' advices.

After contacting the representative of the minority shareholders, and upon receiving additional information and documentation of other acts of bankruptcy fraud, Petitioner moved to impose sanctions and to revoke the fee awarded to Respondents' counsel eighteen days after the order of confirmation and discharge terminated the Chapter XI's. The motion was returnable on December 8, 1978.

On December 6, 1978, the Court of Appeals handed down its Per Curiam Opinion which affirmed the District Court's Memorandum and Order which in turn upheld the Bankruptcy Court's Order and Amended Order. Despite the fact that the Bankruptcy Court's Amended Order provided for post-Confirmation dollar-

for-dollar commission payments to Petitioner for deliveries made to Respondents after the Chapter XI had terminated which payments were recorded as "expenses of administration, the Court of Appeals stated that no such jurisdiction was taken post-Confirmation:

> [4] Equally unfounded is appellant's contention that the bankruptcy judge erred in denying priority status to her claim for commissions as an administration expense. The record establishes that appellant has received payment in full on all deliveries made by Rudd to Hartford during the period of arrangement. If appellant believes that she has not received commissions due her on deliveries made thereafter, her remedy lies not in the bankruptcy court nor on this appeak, but in a plenary action at law. See In re Gordon, 44 S.Supp. 581. (S.I.) N.Y. 1942); 9 Collier on Bankruptcy ¶¶8.11, 8.12 (14th ed. 1975)*

On December 8, 1978, the Bankruptcy Judge denied the motion seeking the imposition of sanctions, etc., stating that the Court was a Court of limited jurisdiction and lacked jurisdiction post-Confirmation to impose sanctions or to revoke the fee awarded to Respondents' counsel. While ignoring his order which approved the fee application after the Chapter XI had ended, the "Amended Order" which provided for payment of commissions to Petitioner earned after the date of Confirmation and Discharge and the Order of Confirmation and Discharge which specifically reserved such jurisdiction, the Court did

state on the Record that it had informed the United States Attorney's Office that Respondents and their counsel had "lied". The Court further categorized the Chapter XI proceedings as a "ripoff" of everybody.

Despite citing a "lack of jurisdiction" post-Confirmation to impose sanctions on Respondents' counsel, the Court, in a pique of anger, turned around and imposed sanctions on Petitioner's counsel for bringing the motion to impose sanctions on Respondents' counsel.

On December 21, 1978, Petitioner returned to the District Court on a motion for contempt against Respondent's counsel and additional motions seeking to have the District Court vacate its original Memorandum and Order which was affirmed by the Per Curiam Opinion. The Court refused to vacate its order, but acknowledged its awareness that the Bankruptcy Court in its Amended Order had in fact provided for post-Confirmation commission payments to Petitioner, in the following exchange:

> MR. SHUFFMAN: Your Honor stated that you did not take jurisdiction for a period of post-Confirmation, yet you ordered the appellant paid monies post-Confirmation.
>
> THE COURT: That is what the bankruptcy judge ordered.

On January 9, 1979, the Bankruptcy the Court denied Petitioner's motion to rehear the December 8, 1978 Order again citing lack of jurisdiction to do anything post-Confirmation. The Court also stated on the

Record that Petitioner did not retain as her consultant Ephraim Leibowitz, Esq., the Bankruptcy expert whose column on Bankruptcy Practice is a regular feature on Page 1 of the New York Law Journal. Documents proving that Leibowitz was in fact retained were already on file in the Court of Appeals, together with a partial list of those "findings of fact and conclusions of law" which he found to be "clearly erroneous." Leibowitz also concurred in the fact that the proceedings in the Bankruptcy Court were marred by numerous acts of wrongdoing.

The Bankruptcy Judge, who at the time of the hearing was a member of the faculty for several seminars on the new Bankruptcy Reform Act which had as its faculty co-chairmen the two senior partners of Respondents' counsels' law firm in charge of the Chapter XI's finished the hearing by imposing a $50 fine for contempt upon Petitioner's counse.. The Court then appointed Respondents' counsel to represent the United States on the appeal of the contempt order even though it had filed a complaint against respondents' counsel with the United States Attorney's Office.

Respondents' counsel have since written a book on Practice Under The New Bankruptcy Reform Act, which was published by the sponsor of the seminar.

On October 3, 1979, Melvin Wulf, Esq., a former director of the Civil Liberties Union and presently a partner of former Attorney General Ramsey Clark at Clark, Wulf, Levine & Peratis, which had been retained to represent Petitioner's counsel on the appeal of Bankruptcy Court's orders imposing both sanctions

and contempt, argued in favor of the disqualification of Respondents' counsel citing what he termed the "serious charges" of wrongdoing pending against both the Bankruptcy Court and Respondents' counsel.

While the appeal of the orders imposing sanctions and contempt are sub judice in the United States District Court, the appeal of the District Court's order denying the disqualification of Respondents'counsel from appearing on behalf of the Judge and United States on that Appeal is presently sub judice in the Court of Appeals.

Petitioner's counsel moved for a stay of the District Court proceedings in the Court of Appeals until the determination of the appeal of the order denying the disqualification motion. The motion was referred to a panel of Judges Sterry R. Waterman, Walter R. Mansfield and Leonard P. Moore.

Since Judges Waterman and Mansfield were the Judges who had perpetrated a fraud on the Supreme Court and the Petitioner based upon their participation in the cover up of the falsification of May 9, 1978 "CORRECTED" Order presented to the Supreme Court in Case No. 77-1812, which also forms the basis of the Mandamus petition in Case No. 79-681, and also helped stage the "charade" hearing on Petitioner's Motion For Order Directing the President to Appoint A Special Prosecutor in which Judge Moore participated, Petitioner immediately moved for their recusal from hearing the motion for a stay.

This Petition for A Writ of Certiorari is taken from the denial of the recusal motion, which the Judges characterized "as completely baseless, scurrilous and disgraceful."

SUMMARY OF THE ARGUMENT

Several reputable news organizations, including Gannett, have published articles detailing the commission of crimes by Judges and Staff Attorneys of the United States Court of Appeals for the Second Circuit. The charges were based in part upon documentary evidence, the existence of which is known to the Supreme Court.

One newspaper identified its source of additional information regarding the conspiracy to obstruct justice as part of a cover up of a fix in the Bankruptcy Court as someone within the Chambers of the Chief Judge of the Second Circuit.

Under the recent and innovative ruling by the Fifth Circuit in the Bert Lance case, In re Grand Jury Investigation, 610 F.2d 202, (5th Cir., 1980), the documentary evidence presented to the three-judge panel of the Court of Appeals for the Second Circuit, coupled with the published newspaper articles identifying the source as someone within the Chambers of the Chief Judge of the Second Circuit, constitute a sufficient prima facie showing of evidence of judicial misconduct to warrant the recusal of the Judges, or an evidentiary hearing before a Motion For Recusal can be denied.

The concurrence of several prominent jurists with the newspaper's conclusion of a fix and cover up involving Federal Judges which may reach as high as the Supreme Court requires a grant of certiorari under Rule 19 of the Rules of the Supreme Court. Article III of the Constitution requires a similar result for the High Court to honestly administer justice.

ARGUMENT

Several reputable news organizations, including Gannett, the country's largest, have published articles questioning the integrity of the administration of justice with respect to the adjudication of In re Hartford Textile Corporation, et als. and related cases. One newspaper has even suggested that the Justices of the United States Supreme Court have swept the case under the rug to cover up the wrongdoing in the lower Federal courts.

One recent article has also reported exparte meetings between Respondents' counsel and representatives of the Court of Appeals at which a strategy was agreed upon through which to silence Petitioner's counsel. According to the published newspaper account, it was determined that Respondents' counsel would file a Complaint against Petitioner's counsel with the Court of Appeals, which in turn would use that Complaint to order immediate disciplinary proceedings.

On January 29, 1979, Respondents' counsel did file a Complaint with the Second Circuit against Petitioner's counsel. On March 21, 1979, the court of Appeals held an extraordinary meeting at which the Judges voted sua sponte and en banc for immediate disciplinary proceedings against Petitioner's counsel.

The Complaint as filed recited a set of facts underlying the overall litigation which directly contradicted the Second Circuit's Per Curiam Opinion which it relied upon for its foundation. The newspaper identified its source for the information regarding the meetings as someone within the Chambers of

the Chief Judge of the Second Circuit.

The recent Fifth Circuit decision on the contempt motion in the Bert Lance case, In re Grand Jury Investigation, 610 F.2d 202, (5th Cir., 1980), held that a prima facie showing of a violation of the secrecy rule with regard to grand jury proceedings entitled Mr. Lance to an evidentiary hearing. The Court then reversed a District Court Order which denied his motion.

The Gannett Newspapers, the Associated Press, OUR TOWN and the exhibits annexed to both sides' papers on the Motion For Leave to File Petition For Writ Of Mandamus in Supreme Court Case No. 79-681 constitute a sufficient prima facie showing of violation of 28 U.S.C. §455 by Judges Walter R. Mansfield, Sterry R. Waterman and Leonard P. Moore to at least warrant an evidentiary hearing on Petitioner's Motion For Order of Recusal of Judges, etc., if not the recusal of the entire Second Circuit Bench.

Moreover, the various newspapers' accounts of crimes being committed by Judges and lawyers should be a sufficient prima facie showing of judicial misconduct to warrant the granting of the Petition For A Writ Of Certioari under the Supreme Court's Rule 19.

The interests of justice require action by the Supreme Court now to obviate the necessity of Bills of Impeachment by the House of Representatives and Senate based upon future media accounts of a sufficient prima facie showing that the Justices of the Supreme Court were aware of a criminal conspiracy to obstruct justice involving Judges of lower Federal Courts, yet voted to

do nothing. Doing nothing, however, is tantamount to participation in the cover up which denied Petitioner EQUAL JUSTICE UNDER LAW.

IMPORTANCE OF THIS PETITION

In her Petition For A Writ of Certiorari in a related Case No. 79-942, Petitioner stressed the importance of that Petition thusly:

> The imporance of this petition can not be overstated. Very simply, the denial of this petition will provide the antagonists of the Supreme Court with the ammunition they need to prove that the Court is corrupt.
>
> Petitioner lost to a fix in the Bankruptcy Court, which was covered up by both the District Court and Court of Appeals. One former Attorney General of the United States has gone so far as to call it a "clumsy" cover up.
>
> The Supreme Court turned its back on Petitioner when it denied her petition for a writ of certiorari in Case No. 79-178. Since that time Petitioner's Motion For Leave to File a Petition For a Writ of Mandamus and Petition For a Writ of Mandamus in Case No. 79-681, now pending has resulted in the further release of additional documentation of wrongdoing in the Court of Appeals.
>
> Petitioner must not lose to a cover up of that fix by the United States Supreme Court. If she does, eventually the world will learn of the High Court's dishonesty.

Unfortunately, her prayer for relief fell upon the deaf ears of a Court apparently blinded by its own sense of self-righteousness.

Since the filing of that Petition, the largest newspaper organization in the United States, Gannett, has published an article about the judicial Watergate in Hartford which has now reached into the Supreme Court. As the Gannett article relates, Petitioner has provided ample documentation to prove the commission of at least a half dozen serious Federal felonies by the Judges and Staff Counsel to the United States Court of Appeals for the Second Circuit, all of which were intended to deny Petitioner her due process rights.

In addition to Gannett, several other news organizations have trumpeted the official misconduct and judicial misconduct in the Courts below. One newspaper has identified its source of information of judicial misconduct and corruption as someone within the Chambers of the Chief Judge of the Second Circuit.

Even without the published and yet to be published news articles detailing the fix and cover up in the Courts below, this Court has been presented with ample documentation of judicial misconduct and official misconduct through the approximately half dozen Hartford related petitions, starting with 77-1812 filed in June of 1978.

The recent Fifth Circuit ruling in the Bert Lance case, In re Grand Jury Investigation, 610 F.2d 202 (5th Cir., 1980), has established a right to an evidentiary hearing in the face of the prima facie showing of wrongdoing. The recently published articles on In re Hartford Textile Corporation, et al.

identifying sources of information as someone within the Chambers of the Chief Judge, coupled with the documents obtained as a result of the mandamus petition in Case No. 79-681, entitled Petitioner to an evidentiary hearing on her Motion For Order of Recusal of Judges, etc.

With at least five ex-Second Circuit law clerks intimately involved in the Hartford proceedings now clerking for Supreme Court Justices, it is understandable that the Court has not acted to restore integrity to the administration of justice in the Courts below. The first obstacle to a restoration of law and order, obviously, lies within the High Court itself.

Ever since the publication of The Brethren, the Supreme Court has become an open target for criticism, some just and some not. The Hartford case has offered a new dimension, that of a Nixonian cover up involving the Justices themselves.

This Petition would not be important but for the fact that Petitioner is cloaked with certain Constitutional rights, which have thus far been denied by members of the Federal Judiciary. The real importance of this Petition thus becomes whether Petitioner's Constitutional rights are paramount to those of Judges who would deny them.

If it takes a 'judicial Watergate' to restore the integrity to the administration of justice, the men responsible for subverting the Constitution must bear the full responsibility for it. In this case, Rule 19 of this Court's Rules places that responsibility squarely on the shoulders of the sitting Justices.

CONCLUSION

Petitioner respectfully prays that the petition for a Writ of Certiorari be granted.

Respectfully submitted,

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Petitioner
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New York, New York
February 28, 1980

UNITED STATES COURT OF APPEALS
Second Circuit

At a Stated Term of the United States Court of Appeals, in and for the Second Circuit, held at the United States Court House, in the City of New York, on the fourth day of December, one thousand nine hundred and seventy-nine.

In the Matter of
HARTFORD TEXTILE CORP.,
OXFORD CHEMICALS, INC.,
WELLINGTON PRINT WORKS, INC.,

Debtors

ROSE SHUFFMAN, As Executrix of the Estate of Oscar Shuffman,

79-5060

Appellant

v.

HARTFORD TEXTILE CORP.,
OXFORD CHEMICALS, INC.,
WELLINGTON PRINT WORKS, INC.,

Appellee.

It is hereby ordered that the motion made herein by counsel for the appellant by notice of motion dated December 3, 1979 for order of recusal of Hon. Sterry R. Waterman, C.J.; Hon. Leonard P. Moore, C.J. and the Hon. Walter R. Mansfield, C.J.

be and it hereby is denied as completely baseless, scurrilous and disgraceful.

A. DANIEL FUSARO,
Clerk

By: Edward J. Guardaro,
Deputy Clerk

BEFORE: HON. STERRY R. WATERMAN

HON. LEONARD P. MOORE

HON. WALTER R. MANSFIELD
Circuit Judges